Azerbaijan

Voter Registration Assessment

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1. Executive Summary

IFES undertook an assessment to analyze the current voter registration system in Azerbaijan and provide alternative solutions for problems identified during past elections. IFES Election Specialist Tony Reissig traveled to the country of Azerbaijan to evaluate the registration of voters and the production of the voters' list that are used for elections. His findings are complemented by legal analyses conducted by IFES Legal Advisor Kamran Baghirov and IFES' experience in the region. Interviews were held with members of the Central Election Commission (CEC), heads of numerous Executive Commissions (ExCom), as well as representatives of political parties. In addition, roundtable discussions were held with chairmen and members of the Constituency Election Commission (ConEC) and Precinct Electoral Commissions (PEC).

This study confirmed that the current system of registration in Azerbaijan is not accurate and effective. The list of voters is conceived and reconceived for each election and the trust of the public in the validity of the voters' list is virtually non-existent. Therefore, recommendations presented in this document are based on the premise that the process of creating a voter registration program must be revised from its present system and method. The public trust in the electoral system in Azerbaijan must be regained and the beginning of this process needs to begin at the ground level with the creation of a valid voters' list.

This assessment proposes several alternatives to the current process - all of which are currently being used in other countries. Although all of the proposals are monumental in their tasks, all of them are achievable. A timeline is provided for each suggested alternative and is reasonably attainable if organized and executed in a professional manner and method.

2.   Introduction

This report is based on the technical voter registration assessment mission to Azerbaijan from September 15 – 27, 2002 and IFES' experience in the region. Its main objective was to analyze the current voter registration system and provide alternative solutions for problems detected during past elections. IFES interviewed the Chairman and Deputy Chairmen of the Central Election Commission (CEC) of Azerbaijan, District Executive Commission Chairmen (ExCom), Constituency Election Commission Chairmen (ConEC), Precinct Election Commission (PEC) members, political party representatives, representatives of international organizations and local NGO's involved in elections.

This report bases its conclusions on the ten basic functions of an election system. These being: legislating it, administering it, drawing district boundaries, registering voters, providing ballot access to parties and candidates, regulating campaigns, providing voter information, balloting, tabulating the votes, and resolving dispute outcomes. This report looks at the legal basis for voter registration and compares the procedures that are currently in place in Azerbaijan to their actual application as administered by election officials.

The Republic proclaimed its independence on August 30, 1991. According to the Constitution of Azerbaijan, adopted by a universal referendum on November 12, 1995, Azerbaijan is a democratic, legal, and secular Republic. The Constitution was recently amended by a referendum held on August 24, 2002. The system of government administration of Azerbaijan is based on the principles of separation of powers.

1. *Executive Branch*. The head of state is the President. The executive power is vested in the President. The President is elected for a five year term by direct elections. The supreme body of the executive power of the President is the Cabinet of Ministers, headed by the Prime Minister.
2. *Legislative Branch*. The legislative power is vested in the *Milli Majlis* - a one chamber Parliament that consists of 125 deputies elected on the basis of general, equal, direct elections for five a year term. Previously elected by a mixed majority and proportional electoral system, the newly revised Constitution mandates that all seats be elected through single-mandate districts.
3. *Judiciary*. The judicial power is vested in independent courts of Azerbaijan: Constitutional Court, Supreme Court and High Economic Court.

The official language of the Azerbaijan Republic is the Azerbaijan language spoken by 95% of the population.

Administratively, the republic is divided into 65 rural regions and 11 towns of the Republican submission (Baku, Ganja, Sumgayit, Ali-Bayramly, Lankaran, Mingechevir, Naftalan, Khankendi, Sheki, Guba, and Shusha). The capital of Azerbaijan is Baku. The city is divided into 11 districts - Azizbeyov, Binagadi, Garadagh, Narimanov, Nasimi, Nizami, Sabail, Sabunchi, Surakhani, Khatai, Jasamali; comprising 30 settlements (130 in all the republic). Each of these regions, towns, and districts has a cooresponding

appointed District Executive Authority which reports to the Presidential Apparatus. Additionally, there are 2667 elected municipalities.

According to the CEC, Azerbaijan had 4,300,000 voters who received a notice about the August 24, 2002 referendum election. During the election for the *Milli Majlis* on November 5, 2000, there were 100 Constituency Electoral Commissions and some 5000 Precinct Election Commissions.

3.   Purposes of Voter Registration[1]

As a general rule, a prerequisite of voting in elections is that eligible citizens are recorded in a register called a voters' list. Different countries use many different methods to verify the identity of voters' and their eligibility to vote. The voter registration database is the cornerstone of election integrity. It ensures that all eligible voters are allowed to vote, and prevents ineligible voters from casting a ballot. It validates voter identity and protects against voters casting multiple ballots in the same election. The voters' list is the engine that runs the election system. The main purpose of voter registration is established by three general principles:

1. To enable all qualified citizens to be included on the list.
2. To prevent electoral abuse and fraud by individuals, special interest groups, political parties, and governments.
3. To be widely accepted as an authoritative and legitimate means of cataloguing the electoral population and of settling disputes.

The main objective of voter registration is that of establishing each voter's identity and qualifications. The second important objective is to ensure that qualified voters vote only once. These objectives are accomplished in two ways. First, the registered voter's name appears in only one polling place so that s/he cannot vote (at least under that name) in any other place. Second, it normally entails some sort of verification of the voter's identity -whether by signature comparison, a check of the voter's identity cards or papers, or even in some countries, a voter registration card containing the voter's photograph.

Voter registration is a process that allows the state to identify individuals who have the right to vote under the law and generally specifies the polling site assigned to them on Election Day.

3.1   Methods of Voter Registration

There are four basic ways to conduct voter registration, including a system of non-registration:

3.1.1   *No registration*. Using this method, the citizen arrives at the polling station and votes after a process of positive identification. Some countries in Africa, in rural areas, use this type of voting which gives the elders of the tribe, who know everybody in the village, the authority to determine the identity of the person and his/her right to vote. Voting in Latvia is carried out in any polling station without any requisite except the presentation of the local passport or other identification document. Finger inking is the only secure way to avoid multiple voting.

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[1] Most of this section "Purposes of Voter Registration" is extracted from *Voter Registration Recommendations: Voter Registration System in Georgia,* Enrique Saltos , IFES, May 1999.

3.1.2 *Compulsory registration*. In this type of system, all citizens must register, whether in a civilian registry or in an electoral registry. In the first case, the mandatory electoral registration is a consequence of a legal obligation to register everybody at the moment of birth in a civilian registry. Later, when voting age is reached, the citizen is automatically included in the voter list. In the second case, people register in an ad-hoc voter registration system. Compulsory registration can be state-initiated, using a civil registry or the door-to-door system. Alternatively the burden for registration can be placed on the individual voter who must register at special registration places.

3.1.3 *Voluntary registration*. The burden for this type of registration is on the citizen. Citizens register in designated places during the entire year, as in Guatemala or El Salvador in Central America, or only during some months, prior to Election Day. Voluntary registration is always self-initiated by the individual.

3.1.4 *Simultaneous registration and voting*. In this type of voting system, citizens first register and then vote immediately. This was the case in the Dominican Republic in 1996.

3.1.5 Usually, registration is completed before elections. There are two ways in which registration takes place. First, an electoral or ID document is issued to the individual. This document includes the electoral district where he/she has the right to vote. Second, the name of the individual is entered into an electoral register, and a list of voters is then provided to each polling station that is comprised of the names of persons allowed to vote in that polling station. When the voter appears, his/her identity can be proven with particular documents (ID card, electoral card, passport, driver's license). In most countries, both systems are used simultaneously: a card is issued and the voter's name appears on the voter's list.

3.2 Technology of Voter Registration

Another type of classification is provided by the technology used to register citizens:

3.2.1 *Manual registration*: Voters register in a book personally, manually, and in the same electoral districts of their residences. This type of registration is often used for first time voter registration in countries that do not have a civilian registry. This was the case in Nicaragua, Mozambique and Cambodia. After the registration is completed, the data in the books can be introduced into a computer to develop a computerized voter list (Cambodia, Bosnia, and Eritrea), or can be kept "as is" to vote in the same books (Nicaragua 1989, Ukraine and other CIS countries). Advantages of this type of manual registration include its simplicity, low cost (a relatively low budget necessary to implement it), and the citizens' immediate knowledge of the polling station where they vote. Disadvantages include the low level of security, the short lifespan of the system (if it is not updated regularly or data is not transferred to computers), and, in the long run, a

higher cost because a totally new registration phase must be built each time elections are carried out.

3.2.2   *Computerized registration.* Using computer technology, a voter registration database can be built for the first time in different ways:

1. It can use a special inscription form, which can be taken and deposited in any of several booths or places designated for this purpose. Information on these forms is transferred to computers, verified against it to detect multiple registrations, sorted for place of residence and alphabetized. The processed information is then distributed to polling stations in the form of voter lists.

2. Voters are requested to register in the place where they want to vote. A special registration form is issued and completed, and then the information is transferred to computers. After the usual verification, the voter list is printed using the same address provided by the individuals.

3. Voters are requested to go to a designated location, where an identification document is requested. At these locations, data from the identification is entered directly in to the computer system. An observer verifies this information, and then the voter signs and receives a receipt.

4. In a State-initiated registration system, electoral authorities (Nicaragua) or central/local government authorities (most countries in Eastern Europe and the NIS) verify the residence of individuals, house by house, using special forms to collect information. Later, data in these forms could be entered into computers.

When the voting process is over, the registration system can be updated permanently (permanent voter list systems) or discarded, with all registration steps repeated before the next elections (periodic update).

3.3   Objectives of Electoral Registration

Electoral Registration does the following:

3.3.1   Connects persons and polling stations. Information on the number of voters in each electoral district is necessary to ensure fairness. Elections are not considered free and fair if it is not possible to verify the legitimacy of voters.

3.3.2   Prevents multiple voting. In computerized systems, this is done using computer programs to verify the whole database against itself to detect similar or identical registers. Complete security can be obtained only through fingerprint matching.

3.3.3   Permits a simple and cheap update for future elections -- if a permanent key field like the passport number is captured in all registers.

3.3.4 Provides some degree of control over "ballot paper stuffing" since the names of voters are crossed out and, at the end of the voting day, the number of names crossed out must coincide with the number of ballots in the box.

3.3.5 Streamlines the logistics of the administrative voting process by providing knowledge of the number of ballots, office supplies, and a fair calculation of transportation and human resources required for the electoral project.

3.3.6 Increases the credibility of the whole electoral process (together with transparency).

3.3.7 Determines who has the right to vote. There are exceptions in Nicaragua and in Eastern Europe, where the law permits citizens' to vote if they are not registered. In computerized registration systems, voting without registration is the exception and not the rule.

3.3.8 Provides a comprehensive database for verification and auditing of the electoral process, and a mechanism to determine the right to vote in the case of absentee voting or tender voting.

3.3.9 Provides immediate information, at the end of the process, about the turnout of voters and statistical data to improve future elections.

3.3.10 Provides information for electoral research for political parties, electoral authorities, international organizations and NGO's.

3.4 Characteristics of a Voter Registration System

A Voter Registration System must be:

3.4.1 *Integral and not discriminatory.* The registration must include all people who have the right to vote, according to law, without any restrictions due to race, religion or any other type of discrimination against groups of individuals.

3.4.2 *Transparent.* All participants and stakeholders in the electoral process, internal and external -- including the legislature, political parties and international and local observers should have access to information gathered by the system, the administrative processes and the computer programs. They should be able to make suggestions and have the right to verify whether their input was considered and implemented, or know the reason why it was not. The legitimacy of an election sometimes lies more in perception than on facts and figures. Transparency is the way to provide this perception. Transparency is not opposed to confidentiality, although it is usually necessary to define some rules to balance both concepts.

3.4.3   *Secure.* It needs to have the necessary physical and logical safeguards to guarantee that data inside the database cannot be amended, deleted or added to by anyone but the personnel in charge, and that those changes are in accordance with reality.

3.4.4   *Effective.* It must be easy to operate, easy to transport, and adaptable to the environment in which it will be implemented.

3.4.5   *Audit capable and accountable.* The system must be reliable and able to track all changes made from its initiation and provide clear information about itself.

3.4.6   *Feasible*. It must be designed in accordance with the law, be able to be implemented and have all the resources necessary (money, time, people, equipment, etc.) to permit its full implementation.

3.4.7   *Reliable*. It must be constant and inviolable in order to provide sustainable citizen confidence.

4.   Legal Basis for Voter Registries

Other than basic principles and fundamentals established in the elections (referendum) related legal acts,[2] neither procedures for compiling and maintaining the voters' registry nor duties and authorities of the relevant state agencies responsible for the registry are well-developed and clearly specified in Azerbaijani laws. There also exist no precedents for issuing regulatory statutes on these issues by executive bodies either. This section, therefore, only addresses those election-related laws which affect issues of the voters' registry.

The compilation of the voters' registry is mainly governed by the following laws:[3]

1. Law of the Azerbaijan Republic No.425-IQ *On Referendum*, dated December 30, 1997 (Referendum Law)
2. Law of the Azerbaijan Republic No.496-IQ *On the Central Elections Commission*, dated May 15, 1998 (CEC Law)
3. Law of the Azerbaijan Republic No.503-IQ *On Elections to the Presidency*, dated June 9, 1998 (Presidential Elections Law)
4. Law of the Azerbaijan Republic No.699-IQ *On Municipal Elections*, dated July 2, 1999 (Municipal Elections Law), and
5. Law of the Azerbaijan Republic No.900 *On Elections to the Milli Majlis*[4], dated July 5, 2000 (Parliamentary Elections Law).

4.1   Composition of Voters' Lists

Under Article 15(2) of the Parliamentary Elections Law and Article 15(1) of the Referendum Law, bodies of the executive authorities and municipalities[5] as well as commanders of military units and heads of enterprises, institutions and establishments[6] where voters are temporarily located are directly authorized to prepare lists of voters, and then to submit them to the PECs for their approval.

The similar provisions are established in the Presidential Elections Law and the Municipal Elections Law. However, there is no direct reference to the local executive authorities to compile voters' lists in these laws. According to Article 23(1) of the Presidential Elections Law and Article 20(1) of the Municipal Elections Law, the compilation of voter's lists should be made by PECs but on the basis of information received from local executive authorities. The duties and role of municipalities in the voters' lists compilation process are left in both laws as well.

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[2] While the Regulations of Local Executive Authorities, as approved by the Presidential Decree No.138 of June 16, 1999, provides for that local executive authorities shall assist to the relevant bodies in preparing and conduct of elections (referendum) 1999, no relevant authorities and duties with regard to such assistance are specified.

[3] The Government of Azerbaijan is preparing to submit a draft Unified Electoral Code (UEC) to the Milli Majlis for approval that will bring the provisions of these laws together into a single, consistent Code.

[4] The National Assembly.

[5] The role of municipalities in compiling voters' lists is established in the Parliamentary Elections Law only.

[6] Hospitals, prisons, correctional institutions, etc.

The Parliamentary Elections Law, further, specifies that commanders of military units shall be responsible to prepare lists of those voters who are located in the military units and areas. These persons include military servants and their families as well as other persons residing within the military units and areas. Heads of hospitals, resorts, ships, prisons, and correctional institutions are also authorized to compile lists of voters who are temporarily located at these places. Heads of Azerbaijani diplomatic missions and councils are responsible for preparing voters lists of citizens residing in foreign countries. These are established in Articles 15(4), 15(5) and 15(6) of the Parliamentary Elections Law. The similar provisions exist in the Presidential Elections, Municipal Elections and Referendum Laws.

Thus, local executive authorities and municipalities are primarily responsible to provide PECs with the voter's lists. The inclusion of military servants and their families as well as citizens located in hospitals, resorts or prisons, correctional institutions, ships or abroad is a responsibility of commanders or heads of such establishments/places.

The draft Unified Electoral Code (UEC), which is expected to be adopted in Spring 2003, is also unclear on regulations of bodies of local executive authorities and municipalities to prepare voters lists and establish mostly similar provisions specified in the current election (referendum) legislation. Articles 43(2) of the draft UEC provides for voters' lists to be prepared by PECs on the basis of information provided by heads of executive and municipal bodies.

As was previously mentioned, the procedure for compiling voters' lists is not well specified in the Azerbaijan legislation. Article 15(7) of the Parliamentary Elections Law stipulates the voters' information is to be collected and submitted to the PECs by local executive authorities and/or municipalities as well as by military commanders and heads of hotels, prisons, etc. Aside from provisions in legislation, there are no procedural guidelines issued by the Central Election Commission clarifying how this is to occur.

It should be noted that the Parliamentary Elections Law does contain basic provisions and requirements that local executive and municipal bodies should meet upon compiling the voters' lists. In fact, under Article 23(2) of the Presidential Elections Law and Article 20 of the Municipal Elections Law, information on voters' residence of registration must be clarified by local executive authorities two times every year, not later than January 1 and July 1 of each year.

Moreover, under Articles 15(8) and 15(9) of the Parliamentary Elections Law, information on the voters provided by local executive authorities and municipalities must be listed in alphabetical order by detailed addresses of voters' settlements, streets, buildings, apartments etc., and include voters' first name, surname, middle name, year of birth and passport data. Similar provisions are set forth in the Referendum, Presidential and Municipal Elections Law.

Article 16(2) of the Parliamentary Elections Law further specifies the main basis for inclusion of citizens into the voters' lists. These include the following:

1. Place of permanent (or regular) residence[7] of the voter within the territory of the relevant executive authorities or municipalities which register citizens' residence, and
2. De-registration cards[8], if necessary.

Military servants and their families are included on the voters' lists by order(s) of higher military officers confirming voters' military status in addition to the information provided by local executive authorities and municipalities.

Thus, the main basis for inclusion of citizens into the voters' lists is citizens' place of residence recorded in the register of the local executive authorities and/or municipalities and maintained thereby. The inclusion of military servants and their families residing in military settlements into the voters' lists should also be supported by orders of military authorities confirming their military status. Those persons located outside of their place of permanent (regular) residence, *e.g.* in hospitals, abroad, etc., will be included into the voters' lists provided that they have de-registration cards.[9] In addition, the local executive authorities and/or municipalities are responsible for updating the voters' registers each six months.

4.2   Timeframe for Providing Information

The draft UEC establishes clearer rules with regard to updating the voters' lists. In fact, Article 43(1) of the draft UEC states that the Central Election Commission should receive the voters' lists approved by the PECs March 10 of each year. Thus, local executive and/or municipal authorities must provide the PECs with updated voters register every year.[10] The draft UEC, however, makes no provisions specifying procedures for compilation of voters' lists. There merely exists a repetition of the current elections (referendum) legislation, leaving specific procedural guidelines to be issued by the Central Election Commission.

The timeframe for local executive authorities and/or municipalities to submit the information on the voters' lists to the PECs are fairly clearly established in the election (referendum) legislation. Local executive authorities and/or municipalities should provide the PECs with the information on the voters' lists not later than 35 days prior to parliamentary elections under Article 15(7) of the Parliamentary Elections Law; not later than 40 days prior to the presidential or municipal elections under Article 23(2) of the

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[7] While the law does not define the permanent or regular residence, as a practical matter, the registration at the place of residence ("propiska") for permanent and six months for mostly is acceptable in this term.
[8] Under Article 69 of the Parliamentary Elections Law, de-registration cards are issued either by the Constituency or the Precinct Election Commission.
[9] De-registration cards is unnecessary for citizens located in prisons or correctional institutions.
[10] Moreover, the PECs must provide the constituency election commissions as well as the Central Election Commissions with updated voters lists every year.

Presidential Elections Law and Article 20 (2) of the Municipal Elections Law; or not later than 30 days prior to a referendum under Article 15(1) of the Referendum Law.

The elections (referendum) legislation also allows local executive authorities and municipal bodies to use the State Automated Information Systems (SAIS) during compiling the voters' lists. As a practical matter, the Central Elections Commission and the State Statistical Committee currently maintain such database. According to officials of the Central Election Commission, the database of the state automated system however, was only used during the Referendum of August 24, 2002.

4.3   Personal Liability

Unlike the Referendum, Presidential and Municipal Elections Laws, liabilities for persons responsible to provide information on voters for the voters' lists are envisaged in the Parliamentary Elections Law. Under Article 15(3) of the this law, persons responsible for providing information on voters shall be liable for providing actual, true information in timely manner. Neither the Code of Administrative Offences nor the Criminal establishes penalties or fines, however, for failure to meet Article 15(3) of the Parliamentary Elections Law.

Thus, local executive authorities and/or municipalities are responsible to provide actual and true information on voters for voters' lists within the deadline varying from 30 till 40 days prior to the election (referendum) day. As a practical matter, local executive authorities collect information and compile voters' lists within 20 – 30 days before the voters' lists are to be submitted to the PECs.

The draft UEC establishes the unified timeframe for submitting voters' lists by local executive authorities and municipalities to the PECs. Under Article 43(7) of the draft, the local executive authorities must submit voters' lists to the PECs at least 35 days prior to the election (referendum) day. This timeframe is applicable to all elections and for referendum.

4.4   Verifying and Composing Voters' Lists

Upon receiving the voters' lists, the PECs must examine and, if necessary, amend them. Article 15(2) of the Parliamentary Elections Law states that the PECs must examine voters' lists in accordance with the information as set forth in the relevant documents provided by local executive authorities and municipalities, civilian registration office, and bodies which register citizens' addresses and living places. Thus, voters' lists provided by local executive authorities and municipalities must be supported with extracts from the residence register and other relevant documents. As a practical matter, local executive authorities provide the PECs with the voters' lists with no supporting documents.

It should be noted that the elections (referendum) legislation also envisages the deadline for the PECs to check and approve the voters' list received from local executive authorities and/or municipalities. The PECs must approve the voters lists not later than

35 days prior to the parliamentary election day, under Article 15(1) of the Parliamentary Elections Law, or not later than 30 days prior to the presidential or municipal elections day, under Article 24(5) of the Presidential Elections Law and Article 21(6) of the Municipal Elections Law.

The Referendum Law does not clearly specify the approval deadline for the PECs. Article 15(1) of the law does, however, state that PECs should receive the voters' lists from the local executive authorities 30 days period prior to the referendum. The PECs' deadline for approval, therefore, is deemed to be 30 days prior to the referendum day.

Once the voters' lists have been examined, the PECs should draft two copies for parliamentary elections and referenda and three copies for presidential and municipal elections. One copy of voters' lists must be sent to constituency (territorial) election commissions at least 25 days prior to the parliamentary elections and referenda prior to the election (referendum) day and 16 days prior to the presidential and municipal elections.

Thus, the voters' lists compiled by local executive authorities and/or municipalities must be examined, amended if necessary, and approved by the PECs within the timeframe ranging from 30 to 35 days prior to the election (referendum) day. Then, the voters' lists must be submitted to the constituency election commissions. The timeframe for submitting thereto also ranges from 16 – 25 days prior to the elections (referendum) days.

The draft UEC specifies the unified timeframe for the PECs to approve and submit the voters' lists to the Central Election Commission not later than 35 days prior to the election or referendum day.

4.5   Public Review of Information

The elections (referendum) legislation establishes a timeframe for the publication of the voters' lists prior to the election (referendum) day and the possibility for citizens to challenge the information.

Under Article 17(1) of the Parliamentary Elections Law, the PECs must ensure the public display of voters' lists for citizens not later than 25 days prior to the election day. With regard to presidential and municipal elections, the voters' lists must be made public 30 days prior to the election day under Article 25 (1) of the Presidential Elections Law and Article 22(1) of the Municipal Elections Law. Article 19 of the Referendum Law envisages the publicizing of voters lists not later than 20 days prior to the referendum day.

Should citizens not be included in voters' lists or if the information is incorrect, they may require the omissions or mistakes to be corrected by either PECs or local executive authorities. Under Article 17(2) of the Parliamentary Elections Law, the PECs must consider citizens' complaints on omissions and mistakes in the voters' lists within one day following the receipt of the complaint. Similar provisions are also set forth in the

Presidential and Municipal Elections Laws. Further, Article 17(2) of the Parliamentary Elections Law, Article 25(4) of the Presidential Elections Law and Article 22(4) of the Municipal Elections Law state that omissions and mistakes in the voters' lists can be challenged at any time including the election day.

Unlike the aforementioned laws, different procedures for challenging information in the voters' lists are specified in the Referendum Law. Pursuant to Article 20(1), of the Referendum Law, citizens may only file complaints on omissions and mistakes in the voters' lists not later than 10 days prior to the referendum day.

Further, decisions, actions, or inaction of the PECs with regard to complaints can be appealed in the courts or higher election commissions. The election (referendum) legislation specifies also time frame for courts and/or higher election commissions to consider appeals. The timeframe ranges from one to three days following the date appeal filed. Should the appeal be filed at the election (referendum) day, the courts/higher election commissions must consider the appeal immediately.

Thus, publicizing the information of voters' lists is the direct responsibility of the PECs and must be performed within the timeframe ranging from 20 to 30 days. Once the voters' lists have been published, the information therein may also be corrected on the basis of citizens' complaints on omissions or mistakes.

Article 45(1) of the draft UEC establishes the unified time frame for publicizing voters' lists as not later than 35 days prior to the election or referendum day.

4.6   Suggestions for Legal and Administrative Clarifications

Generally, the current elections (referendum) legislation is unclear and vague with regard to procedures and implementing rules for compiling the voters' lists. There exist no unified obligations for local executive authorities and municipalities to prepare the voters lists, *e.g.* the Parliamentary Elections and the Referendum Law requires local executive and municipal bodies to compile the voters lists, while the Presidential and Municipal Elections Laws establish that local executive and municipal bodies must provide the PECs with information on voters only.

Also, the elections (referendum) legislation makes provisions that procedures for compiling the voters' lists should be established by the Central Election Commission's regulation(s) or any instructive orders. As of today, the Central Election Commission has never issued such regulations and therefore, the compilation proceedings are, in practice, regulated by internal rules of local executive authorities and/or municipalities. The draft UEC also is unclear on this issue.

The existing election (referendum) legislation will benefit if the status of local executive authorities and municipalities with regard to compile the voters' lists is clarified.   It is advisable to establish clear rules governing duties and powers as well as liabilities with

regard to preparing or providing the voters lists, and subordination or coordination between the PECs and local executive authorities and municipalities.

5.   Voter Registration Process in Practice

The compilation of the voters' lists rests heavily in the hands of the local executive authorities. This section highlights the relationships between these executive bodies and the election administration structures in administering the process in practice.

5.1   Constituency Election Commissions and the Central Election Commission Oversight

Neither the Constituency Election Commissions nor the Central Election Commission appear to have very little to no input in the creation of the voters' lists. As the system of formulating the names currently exists, the local executive authorities are initially responsible for creating the lists. The ConECs only pass the voter information from the PEC's to the CEC. The CEC then passes the data to the State Automated Information System. The CEC has no registration department in its commission. The registration is not an ongoing process and is reestablished for each election.

5.2   Role of the Local Executive Authorities

The District Executive Commission has sole authority over all election commissions prior, during, and after the election, although this is not stated in the law. According to the written law, these local executive authorities are only responsible to provide a building for ConECs and PECs. They also are to provide services such as phones and heat for these buildings. But in reality, they play a much greater role. Representatives of the District Executive Commission also become responsible for the creation of the voters' lists.

The names for the voters' lists are originally gathered by Jecks (housing authority representative of the District Executive Commission) who are each assigned a certain number of houses. The Jecks are a carryover from the Soviet period. Their main job is to record the movements of people in and out of the homes. These housing authorities prepare a written list of all residents of voting age and submit it to the head of the head of the Local Executive Commission within the time period established by law. The Local ExCom gives the list to the Constituency Election Commission who gives the list to the Central Election Commission. The CEC then gives the list to the State Automated Information System (SAIS) for data input.

The printed voters' lists are then returned to the ConECs who in turn give them to the PECs. The PECs posts the lists as required by law.

This system is plagued by problems of mistrust. The election commissions have little or no input in the generation of the voters' list. The political parties have no access to the lists themselves other then when they are posted. Since the representatives of the ExCom prepare the lists, there is mistrust that these individuals would have a better understanding as to who is and is not going to vote. For example, names of dead people may still appear on the lists and their names may be used as fraudulent votes.

5.3   Role of the Precinct Election Commission

The precinct election commission is responsible for the verification of the voters' list. The members of the commission must make corrections to the list based on information submitted to them.   After making these corrections, the PEC forwards the list to the ConEC.   In addition to conducting the election on Election Day, the PEC is responsible for producing and delivering a written notice of election to each voter based upon the corrected voters' list.

5.4   Special Problems: Internally Displaced Persons

Internally Displaced Persons are those citizens of regions that have become occupied by the Armenians and have temporarily moved into camps, settlements and other locations throughout Azerbaijan.   The law permits these individuals to vote for representatives from the territory from which they originally resided.   This system causes a major problem for the election process.   Although the voters' lists for these areas are created in the same manner as those of the other Commissions, the majority of the Constituency Election Commissions are located great distances from the PEC's and there is a lack of quality control, accountability and consistency.   Since some of these individuals have been out of their original homes for as long as ten years, these voters should be included in the voters' list where they are presently residing and not from the regions in which they lived before their displacement.   This most likely will not happen since it would be an admission that the government has accepted the occupation of the disputed area by Armenia.   Although for the upcoming Presidential elections, it is possible to include these voters on the lists where they are residing; since the office of President would be on their ballot wherever they reside.   This would not only be a cost effective change, but would allow better accountability and quality control.

5.5   General Procedural Recommendations

There are five recommendations for adjusting the current system that should be highly considered. One is a clear breach international standard of transparency and the other four are technological changes that would ease the delivery of the notices of the election and help purge the lists of duplicate names.

1. At present, the only accessibility of the voters list to political parties and candidates is to view it when it is posted. The voters' list is the one document that is visible and verifiable in the election process. If there are problems with the voters' lists, there is the logical assumption that there are problems in other areas as well. IFES highly recommends that the lists should be made available to all political parties and candidates through the State Automated Information System. SAIS has the data stored in their database and it would not be a problem that this agency print copies.

2. IFES recommends steps to ease the preparation of the notice of elections. At present, the list of voters is prepared by SAIS and sent to the PEC's in an alphabetical order according to last name. The PEC's would then hand-write the information in the blanks on a preprinted form sent by the CEC. (Form attached Example A) It is first recommended that the list be sorted by street order; not alphabetically by name. Since the notices are delivered house by house, the PEC's must sort the notices into house order after they have been filed in with the proper information. It is also recommended that the notices themselves be printed by SAIS. It would take little for the computer center to print the notices by street order with all necessary information. These printed notices would then be delivered to the PEC's and the time would then be better spent delivering the notices; rather then filling out notices.

3. IFES recommends that the passport number should also be included in the database. This number was not included in the voters' lists that were used in the past referendum election. These should be entered into the database so they may be used as another identifier in the record to verify the identity of the voter. The passport numbers would not be printed on the voters' lists when they are forwarded for the election; but would be included in the database of the voter. When the voter presents their passport and signs onto the voters' list, the poll workers would then write the passport number in a space provided. Then after the election, members of the CEC or SAIS could compare the number given at the time of the election to that which is in the database to verify the true identity of the voter.

3. IFES recommends that SAIS run a search of the voters' file and look for any duplicate voters. By looking at names, addresses, and dates of birth of voters already in the file, any individuals that have moved and whose name still appear at the old location as well as in the new one, could be identified electronically. These duplicates could be sent to the PEC's to verify which address would be correct.

4. IFES recommends that IDPs be included on the lists where they are residing, especially for the presidential election as the ballot would be the same in all precincts. This would not only be a cost effective change, but would allow better accountability and quality control.

6.   Voter Registration Alternatives in Azerbaijan

The alternatives discussed should be broken down into two areas. One is the method in which the information on the voter is gathered and the other is how this information is stored, maintained, updated and sent to the PEC's on election day. Timelines presented under each alternative are based on readying accurate voters' lists in time for scheduled presidential elections.

The agency that stores the gathered data and maintains and prepares the voters' lists is the State Agency Information System. SAIS is an agency under the direction of the CEC that was established in 2000 through the joint fund venture between the UN and the Azerbaijan government. This center was originally designed to report unofficial election results on election night through a network of computers linked through the Internet and modems within each of the constituency election commissions. In the August 24, 2002 referendum, the center entered the data for the voters' lists and created the lists used on election day. The potential and capability of this agency in election administration has not yet begun to be used. This agency should be able to implement all recommendations and it should be mandatory that the lists produced by this agency be used in their entirety. Some PEC's hand-wrote the voters' lists used on election day from the computer-generated lists sent to them by the CEC that were compiled by the SAIS. By handwriting these lists, the accuracy of the lists is compromised as the voters could be added or deleted at will.

6.1   Alternative One: International Registration Drive

There is a total mistrust of the entire voting process by opposition parties and a large segment of the voting population. This perception could change if an independent international group like IFES, OSCE, and/or UNDP gathered the collection of the original data for the registration of voters. The group could develop a network of teams that would go door to door to register voters; similar as to what Canada and England have done. The teams would fill out registration cards with last name, first name, middle name, address, date of birth, passport numbers and signatures. These cards would be turned into the SAIS for data input. The signatures would be scanned into the record of the voter and would be printed onto the list of voters to be used as an identifier on election day when the voter arrives to vote.

The recommended time frame for this would be from January to April for collecting the data by going door to door. As the registration cards are gathered during this period, they would be turned into SAIS for data entry on a regular basis. SAIS would have the month of May to complete all the data entry. Lists would be distributed to the political parties, international and domestic electoral observation groups and the international community in June. All discrepancies would be submitted and ruled on by the end of August and the corrected notices of election and voters' lists would be available as described in the law.

The international registration drive option has the following advantages:

1. It would create trust of the system within the voter population and also generate a voter database based on unbiased data collection.

2. It would create a high level of transparency by allowing duplicates of the voters list. Then verification by the political parties, international and domestic electoral observation groups and the international community could be performed.

3. Knowing a more precise number of registered voters by address, the political boundaries, the number of PEC's, polling locations, and the necessary number of ballots could be determined with greater accuracy.

4. It would have a secondary effect of providing employment opportunities as the designated international group would hire local citizens to handle the door-to-door operation.

The international registration drive option has the following disadvantages:

1. The first and most apparent problem with this proposal is that the general public would not readily accept the program without skepticism and may refuse to give the information needed. This type of program must have full support of the government and have a massive civic education program through print and electronic media to gain the public's trust and awareness of its necessity.

2. The organizational complications of a project of this magnitude are large. A pyramid type of program would need to be created in which all regions have their own teams that report to a regional office. The regional office would then report to a central office where all would be using consistent techniques to assure all possible citizens of suffrage age are registered.

3. The expense of this alternative would be another disadvantage. The cost of a program like this would have to be financed by a single or group of international donors.

4. The law would have to be changed, or an administrative order of the CEC would have to be issued, in order to permit this type of program.

6.2 Alternative Two: Political Parties Registration Drive

This alternative envisages political parties and NGO's involved in democracy and governance to verify the voters, their addresses, and make any corrections to the list of voters. SAIS would use the names of voters from the last referendum election held on August 24, 2002 and make copies of the list available to the interested parties. These parties would in turn would go door to door and then submit corrections to the PECs. The PECs would investigate, based on the information provided, and make corrections accordingly. These completed lists would then be sent back to SAIS who would enter the

corrected data and submit the adjusted list for the election as stated in the code. This alternative also provides that the SAIS would be responsible for the storage and maintenance of the data for registration.

The time frame for this proposal is based on political parties and/or NGOs receiving the lists in June. The PECs would get revisions to investigate in August and have corrected list by the beginning of September submitted to SAIS. This would require two major actions to succeed. One would be that all political parties and/or NGOs would have to organize and work together using each other's resources and manpower to cover the entire country in sufficient time. Secondly, the law would have to change to organize the PECs by August; which is one month earlier than is in the present law.

Again, in this proposal, it is suggested that a registration card is used in which the voter will give the pertinent information such as first name, last name, middle name, address, passport number, date of birth and signature. The signatures would be scanned and attached to the record by SAIS; as described in the first alternative.

The political party registration drive alternative has the following advantages:

1. It would be effective in correcting errors in the current voters' lists; as well as satisfy the concerns of the validity of the lists since the political parties would be the ones responsible for them.

2. It would provide the highest level of transparency. By allowing the political parties full access to the voters' lists, there could not be a more open process in the verification of names on those lists.

3. Since this project would require the cooperation of all of the major political parties, this in itself would be an advantage in that the political parties would be forced to work cooperatively with each other.

The political party registration drive alternative has the following disadvantages:

1. If the political parties were not able to organize, the suggested alternative would fail. This would allow the government to continue to publish the lists as they have previously done and no positive changes would occur.

2. This alternative could cause numerous disputes within the PECs because the political parties would be the challengers of the current voters' lists and not the individual voter.

3. The law would have to be changed to permit this form of registration.

6.3   Alternative Three: Volunteer Registration Drive

This alternative proposes a volunteer registration program. All citizens of voting age would be asked to go to the local elected municipal authorities and register to vote. A standard registration form would be used. The registration forms would include voter's last name, first name, middle name, address, date of birth, passport numbers, and signature. These registration forms would then be turned into the SAIS on a regular basis for data input. The signatures would be scanned into the record of the voter and would be printed onto the list of voters to be used as an identifier on Election Day when the voter arrives to vote.

The time frame for this recommendation would be for citizens to register from January to July. After submitting the information to SAIS, the list of voters would be generated and sent to the PECs to be processed as stated in the law.

A massive civic education program using both electronic and print media would be necessary to ensure all citizens are aware of the program and register to vote.

The volunteer registration drive alternative has the following advantages:

1. It would allow the municipalities to be involved in another public service to the citizens within their jurisdictions and also permit many people to observe the operation of the municipality for the first time.

2. By using the elected officials from the municipal offices to collect the registration data, there would be a better opportunity to trust the voting lists when they are used in the election.

3. Using signatures on a registration card verifies the identity of the voter to the poll worker on Election Day.

The volunteer registration drive alternative has the following disadvantages:

1. If voluntary registration is used, the public may not participate in the program. This is a much different type of process than the general public has experienced in the past. This type of alternative, as well as most of the others, would require massive civic education. It would have to use print as well as electronic media to promote it. Both of these options would be very expensive.

2. The law would have to be changed to permit this type of registration program.

3. This recommendation would require SAIS to create a large database department at additional costs.

6.4   Compulsory Registration Drive

This alternative proposes a compulsory registration program. All citizens of voting age would be required to go to the local ConEC and register to vote. This would be a state-

initiated mandatory requirement of all citizens of voting age. In addition to the registration form and signature mentioned in the other alternatives, this alternative would permit the issuing of a registration card that could include a photo. These cards could be presented as identification when the person votes. This would require special equipment that would take a photo when the person registers in person and attach the photo to the registration cards. This equipment and operational training would be provided to each ConEC office. After the registrations are completed, the ConEC could use the computers that are linked to SAIS and enter the given data directly into the database at SAIS. This would eliminate a massive data entry facility at SAIS.

The compulsory registration drive alternative has the following advantages:

1. This alternative would lessen the opportunity for falsification of the voter since the voter would be required to present the card with the photo to vote.

2. By using ConEC computers, it would utilize their equipment which already exists and by doing daily updates on a regular basis as registrations come in it would increase the skills of their staff in computer technology.

The compulsory registration drive alternative has the following disadvantages:

1. A major disadvantage of this suggestion would be the cost of this system to generate the photo registration cards. This could be cost prohibitive. In order to encourage citizens to participate, the registration cards would have to be free of any costs.

2. This alternative would not elevate the mistrust that the general public has with the current authorities and possibly not create a belief in the validity of the voters' lists.

3. This type of alternative, as mentioned in the others, would require massive civic education. It would have to use print as well as electronic media to promote it. Since the burden for registration would be placed on the individual voter who must register at the ConEC it could disfranchise a voter who does not get the message that everyone must register.

6.5   Alternative Five: Enhancing the Present System

The final alternative is to use the current system of gathering information on voters and to take the voters' lists that were used in the referendum election of August 24, 2002 and are currently being stored by the CEC. Then have the SAIS scan these lists and utilize document imaging to capture the signatures of those that voted in the election. These lists would be given to the PECs, who would go through the normal procedures that are stated in the current law.

Enhancing the present system would have the following advantages:

1. This alternative would be relatively inexpensive. The only cost would be the hardware and software for SAIS to capture the signatures from the old voters' lists.

Enhancing the present system would have the following disadvantages:

1. The political parties and international community do not believe the alleged turnout of 83% for the August 24, 2002 referendum election is accurate. Therefore, a significant majority of the signatures gathered could be fraudulent. This would defeat the purpose of using the signatures to identify voters.

2. The PEC members would argue over the validity of a person's signature match and disfranchise a valid voter.

7.   Recommendations for Reform

Alternative One: International Registration Drive and Alternative Four: Enhancing the Present System are recommended as being most feasible and effective for the Azerbaijan voter registration system. In addition to these recommendations, the following five mentioned in 5.5 General Procedural Recommendations should be included in whatever recommendation is implemented:

1. In the attempt to make the registration process more transparent the voters' lists should be available to all political parties and candidates through the State Automated Information System (SAIS)

2. The Notice of Elections should be printed by SAIS in street order and sent to the PEC's to be delivered.

3. The passport number for each voter should also be included in the database at SAIS, and printed on the voters' list. This could then be matched and used as another identifier on Election Day.

4. SAIS prior to every election and before printing the voters' list, run a search of the voters' file and electronically look for any duplicate voters.

5. IDPs should be included on the lists where they are residing.

7.1   Recommendation One

The International Registration Drive would be the best alternative since it would build a registration system from the bottom up.   In addition and most importantly, this alternative, using the international community to organize and execute, would help begin the process of regaining the trust of the public in elections. The most accurate way to determine who is living at a certain address is to make an actual home visit to that address and record those of voting age.

This plan would need to break down into the 65 rural regions and the 11 districts of Baku. Each district would have an office to monitor teams that would do the actual door-to-door registration.   Using the same breakdown as the Jecks (housing authority), each two-person team would use the lists either from the CEC or the most current list from the executive commission and make contact with each individual home on the list. This may require multiple visits but every household on a teams list would have to have be contacted. Several teams would have a supervisor who would be responsible to monitor the progress of the teams under their supervision and report to the district office who in turn would report to the central office in Baku.   This is not an impossible task. Jurisdictions in Canada regularly undertake this form of canvassing. And in the summer of 1998 in the United States, the Board of Elections in the city of Chicago ordered a canvas of all registered voters on the voters' list. All Precinct Judges were given a list of voters, sorted by address and were asked to go door to door in approximately two months

and were able to canvas the 1,310,374 voters. The complete work force consisted of 2000 people.

7.2   Recommendation Two

Another recommendation for a Volunteer Registration Drive would provide a solution to the current problem of inaccurate voters' lists by starting from the beginning and creating a new list. This option would also take the responsibilities of development of the voters' list away from the executive authorities and thereby reducing their authority and possible control over this process of the election administration. It would further enhance the offices of the elected local officials.

By developing a volunteer registration system, only those who choose to vote will take the effort to register. This suggestion may propose the most difficult problem since the public must be informed of the change. A massive civic education program would need to be developed using all forms of media. This recommendation would have to have full support of the government and all of its resources.

The mechanical development of this recommendation is simple in theory. The citizens who are of voting age would come to their municipal offices and have a form filled out and sign the form. Then the forms would be given to SAIS on a regular basis to be entered into the database. Both of these offices exist now and only SAIS would have to purchase hardware and software to scan the signatures and store them electronically in the database. Additionally, both may have to hire staff to execute the extra duties.

This recommended option would need to be launched in January and continue through July. After submitting the information to SAIS, the new list of voters would be generated and sent to the PECs in accordance with the timeframe set forth by law.

Although international assistance may be required in the area of civic education and in the organization of the program itself, this recommendation places a greater emphasis on the electorate of Azerbaijan.

8.0   Conclusion and Next Steps

Based on the findings of this assessment and experience in Azerbaijan, IFES considers it critical that considerable steps are taken to ensure that the voters' lists are compiled effectively, updated regularly, and incorporate significant elements of civil society oversight in order to ensure their accuracy. IFES has presented a series of options and recommendations for reform based on Azerbaijan experience, the legal and procedural framework, and realities in election administration. These suggestions for reform should be considered a starting point towards drafting a comprehensive plan of action. They are basic guidelines that can be adjusted as necessary to incorporate features from other options. IFES will seek feedback from various players in the election process from the executive administration, election administration structures, and civil society with a view towards choosing an option that best suits the electoral environment of Azerbaijan.

Attachment A

National Voting (Referendum) in the Republic of Azerbaijan
August 24, 2002, Saturday

NOTICE

Address of voter_____
Dear citizen_____
            (name, last name, father's name)

We are inviting you to the national voting (referendum) conducted with the purpose of making changes to the Constitution of the Republic of Azerbaijan.

Voting hours for referendum are from 8.00AM to 22.00.

You are listed in the voters list for referendum voting station #_____ which is located in

_____
(address of voting station)
of referendum constitution #_____.

Don't forget to bring an identification and citizenship document!

Precinct Election Commission

Attachment B

The following individuals were interviewed, participated in a discussion groups or met with IFES Election Specialist Tony Reissig.

Mazahir M. Panahov, Chairman, CEC
Svetlana Gasinovo, Deputy Chairman, CEC
Rovzat A. Gasimov, Head of the International Relations Department, CEC
William D. Mc Kinney, USAID, Country Coordinator
Kelley Strickland, USAID, Civil Society Advisor
Mark Foehr, Country Director, IRI/Azerbaijan
Fuad Mustafayev, APEF (Popular Front) Party
Ilgar Mammadov, Deputy Chairman, National Independence Party of Azerbaijan (ANIP)
Dr. Igbal A. Babayev, Chairman, State Information Center (SAIS)
Ibrahim Mehdiyev, Chairman, Executive Commission, Khatai District
Isayev Rafig, Head of Department of records and the computer, Khatai District
Kerim Agayev, Chairmen, Constituency Election Commission, Khatai District
Mirfaig Mirheydarli, Chairmen, Constituency Election Commission, Khatai District
Rustam Milkailov, Chairmen, Constituency Election Commission, Khatai District
Zulfigar Kazimov, Chairman, Executive Commission, Narimanov District
Mustafa Hasanov, Chairmen, Constituency Election Commission, Narimanov District
Irada Aliyeva, Chairmen, Constituency Election Commission, Narimanov District
Natig Jabiyev, ADP Party
David Sip, Director, NDI/Azerbaijan
Gorkhmaz Askerov, Political Officer, NDI/Azerbaijan
Khayyam Mammadov, Chairman, Executive Commission, Gakh District,
Rajab Yahyayev, Chairman, Constituency Election Commission #60
Nizaami Ahmadov, Chairman for the Territorial Issues in Gakh Executive Commission.
Firgat Mammadov, Chairman for the Territorial Issues, Seki District
Ayyub Jabrailov, Chairman, Constituency Election Commission #43
Veysal Hajiyev, Chairman, Constituency Election Commission #44
Alovsat Nasrullayev, Head of Executive Commission Department, on refugee and IDP issues, Seki District
Bashir Ibrahimov, chairman, PEC #59 of Constituency Election Commission #41 that represents Kalbajar-Khojali-Khojavand-Tartar regions
Maharram Rzayev, Secretary of PEC #59,
Mahammad Shukurov, chairman of PEC #54 of Constituency Election Commission #71 that represents Lachin-Kalbajar regions,
Gizkhanim Aleskerova, member of PEC #50 of Constituency Election Commission #48,
Rafael Ismayilov, chairman of Chalabikhan municipality, Aghdam village
Ahliman Taghiyev, Chairman, Executive Commission. Ismayilli district
Aghasaf Aliyev, Chairman, Constituency Election Commission, Ismayilli district
Akif Aliyev, Chairman, Executive Commission, Shamakhi district
Vahid Khanaliyev, Chairman, Constituency Election Commission #98
Sabir Mammadov, Secretary, Constituency Election Commission #98
Soltan Osmanov, Executive Commission representative, Shahriyar settlement